



April 6, 2001

ENGROSSED SENATE BILL No. 154

DIGEST OF SB 154 (Updated April 3, 2001 9:07 AM - DI 105)

Citations Affected: IC 8-22; IC 25-36.5.

Synopsis: Timber regulation. Provides that a person who, after an initial violation, knowingly or intentionally commits a subsequent unrelated violation of buying timber without first securing a registration or refusing to allow the inspection of the person's records, commits a Class D felony. Provides that a person seeking a preliminary injunction or restraining order to prevent wrongful cutting of timber on the person's property is relieved of the requirement of posting bond or other security, unless the person had a contract for cutting or sale of timber. Provides trees or timber removed by a local airport authority or local aviation commissioners are considered personal property for sale or severance.

Effective: July 1, 2001.

Lewis, Wheeler, Craycraft, Skillman
(HOUSE SPONSORS — LYTTLE, CHERRY)

January 8, 2001, read first time and referred to Committee on Rules and Legislative Procedure.

February 6, 2001, amended, reported favorably — Do Pass.

February 12, 2001, read second time, ordered engrossed. Engrossed.

February 13, 2001, read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

February 26, 2001, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

April 5, 2001, amended, reported — Do Pass.

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ES 154—LS 6532/DI 77+



April 6, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED SENATE BILL No. 154

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-22-2-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2001]: Sec. 8. **(a)** If the board wishes to sell
3 part or the whole of the aviation land or improvements owned by the
4 eligible entity, it may prepare an ordinance authorizing the sale and
5 submit it to the fiscal body of the entity. If the fiscal body passes the
6 ordinance, the land or improvements shall be sold as other lands or
7 improvements of the entity are sold, and the proceeds of the sale shall
8 be deposited in the aviation fund of the entity.

9 **(b) If the board negotiates an agreement to sell trees situated in**
10 **woods or forest areas owned by the board, the trees are considered**
11 **to be personal property of the board for severance or sale.**

12 SECTION 2. IC 8-22-3-11, AS AMENDED BY P.L.29-1999,
13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2001]: Sec. 11. The board may do all acts necessary or
15 reasonably incident to carrying out the purposes of this chapter,
16 including the following:

17 (1) As a municipal corporation, to sue and be sued in its own

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- 1 name.
- 2 (2) To have all the powers and duties conferred by statute upon
- 3 boards of aviation commissioners. The board supersedes all
- 4 boards of aviation commissioners within the district. The board
- 5 has exclusive jurisdiction within the district.
- 6 (3) To protect all property owned or managed by the board.
- 7 (4) To adopt an annual budget and levy taxes in accordance with
- 8 this chapter.
- 9 (A) The board may not levy taxes on property in excess of the
- 10 following rate schedule, except as provided in sections 17 and
- 11 25 of this chapter:
- | | |
|------------------------------------|--------------------|
| 12 Total Assessed | Rate Per \$100 Of |
| 13 Property Valuation | Assessed Valuation |
| 14 \$300 million or less | \$0.10 |
| 15 More than \$300 million | |
| 16 but not more than \$450 million | \$0.0833 |
| 17 More than \$450 million | |
| 18 but not more than \$600 million | \$0.0667 |
| 19 More than \$600 million | |
| 20 but not more than \$900 million | \$0.05 |
| 21 More than \$900 million | \$0.0333 |
- 22 (B) Clause (A) does not apply to an authority that was
- 23 established under IC 19-6-2 or IC 19-6-3 (before their repeal on
- 24 April 1, 1980).
- 25 (C) The board of an authority that was established under
- 26 IC 19-6-3 (before its repeal on April 1, 1980) may levy taxes on
- 27 property not in excess of six and sixty-seven hundredths cents
- 28 (\$0.0667) on each one hundred dollars (\$100) of assessed
- 29 valuation.
- 30 (5) To incur indebtedness in the name of the authority in
- 31 accordance with this chapter.
- 32 (6) To adopt administrative procedures, rules, and regulations.
- 33 (7) To acquire property, real, personal, or mixed, by deed,
- 34 purchase, lease, condemnation, or otherwise and dispose of it for
- 35 use or in connection with or for administrative purposes of the
- 36 airport; to receive gifts, donations, bequests, and public trusts and
- 37 to agree to conditions and terms accompanying them and to bind
- 38 the authority to carry them out; to receive and administer federal
- 39 or state aid; and to erect buildings or structures that may be needed
- 40 to administer and carry out this chapter.
- 41 (8) To determine matters of policy regarding internal organization
- 42 and operating procedures not specifically provided for otherwise.

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(9) To adopt a schedule of reasonable charges and to collect them from all users of facilities and services within the district.

(10) To purchase supplies, materials, and equipment to carry out the duties and functions of the board in accordance with procedures adopted by the board.

(11) To employ personnel that are necessary to carry out the duties, functions, and powers of the board.

(12) To establish an employee pension plan. The board may, upon due investigation, authorize and begin a fair and reasonable pension or retirement plan and program for personnel, the cost to be borne by either the authority or by the employee or by both, as the board determines. If the authority was established under IC 19-6-2 (before its repeal on April 1, 1980), the entire cost must be borne by the authority, and ordinances creating the plan or making changes in it must be approved by the mayor of the city. The plan may be administered and funded by a trust fund or by insurance purchased from an insurance company licensed to do business in Indiana or by a combination of them. The board may also include in the plan provisions for life insurance, disability insurance, or both.

(13) To sell surplus real or personal property in accordance with law. **If the board negotiates an agreement to sell trees situated in woods or forest areas owned by the board, the trees are considered to be personal property of the board for severance or sale.**

(14) To adopt and use a seal.

(15) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports, landing fields, and other air navigation facilities, either inside or outside the district; to acquire by lease (with or without the option to purchase) airports, landing fields, or navigation facilities, and any structures, equipment, or related improvements; and to erect, install, construct, and maintain at the airport or airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public. The Indiana department of transportation must grant its approval before land may be purchased for the establishment of an airport or landing field and before an airport or landing field may be established.

(16) To fix and determine exclusively the uses to which the airport lands may be put. All uses must be necessary or desirable to the airport or the aviation industry and must be compatible with the uses of the surrounding lands as far as practicable.



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(17) To elect a secretary from its membership, or to employ a secretary, an airport director, superintendents, managers, a treasurer, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate the compensation to be paid to the persons employed by it in accordance with the authority's appropriations. All employees shall be selected irrespective of their political affiliations.

(18) To make all rules and regulations, consistent with laws regarding air commerce, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control.

(19) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field.

(20) To manage and operate airports, landing fields, and other air navigation facilities acquired or maintained by an authority; to lease all or part of an airport, landing field, or any buildings or other structures, and to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; and to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding fifteen (15) years and may be extended for similar terms of years, except that any parcels of the land of the airport may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding forty (40) years and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility has been determined satisfactory by the board offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport on land belonging to the airport, a lease may be entered into for a period not to exceed ninety-nine (99) years. However, the board must pass an ordinance



to enter into such a lease. The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the board prescribes. The authority may lease its property and facilities for any commercial or industrial use it considers necessary and proper, including the use of providing airport motel facilities.

(21) To sell machinery, equipment, or material that is not required for aviation purposes. The proceeds shall be deposited with the treasurer of the authority.

(22) To negotiate and execute contracts for sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control and operation. However, whenever the board determines to sell part or all of aviation lands, buildings, or improvements owned by the authority, the sale must be in accordance with law.

(23) To vacate all or parts of roads, highways, streets, or alleys, whether inside or outside the district, in the manner provided by statute.

(24) To annex lands to itself if the lands are owned by the authority or are streets, roads, or other public ways.

(25) To approve any state, county, city, or other highway, road, street or other public way, railroad, power line, or other right-of-way to be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(26) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them in the same manner that the authority may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments, bodies, and officers of an eligible entity to secure the proper orders and approvals; and to order a public utility or public service corporation or other person to remove or to install in underground conduits wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of

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operations, upon payment to the utility or other person of due compensation for the expense of the removal or reinstallation. The board must consent before any franchise may be granted by state or local authorities for the construction of or maintenance of railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of land that is necessary for the safety of operation. The board must also consent before overhead electric power lines carrying a voltage of more than four thousand four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2) mile of a landing area acquired or maintained under this chapter may be installed.

(27) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

(28) To provide air transportation in furtherance of the duties and responsibilities of the board.

(29) To promote or encourage aviation-related trade or commerce at the airports that it operates.

SECTION 3. IC 25-36.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Every person registered as a timber buyer shall file with the department an effective surety bond issued by a corporate surety authorized to engage in the business of executing surety bonds in Indiana.

(b) Instead of the bond required by subsection (a), the department may accept security in cash or a certificate of deposit under terms established by rule.

(c) The security required under subsection (a) or (b) shall be made payable upon demand to the director, subject to this chapter, for the use and benefit of the people of Indiana and for the use and benefit of any timber grower from whom the applicant purchased and who is not paid by the applicant or for the use and benefit of any timber grower whose timber has been cut by the applicant or registrant or his agents, and who has not been paid therefor.

(d) The security required under subsection (a) or (b) shall be in the principal amount of two thousand dollars (\$2,000) for an applicant who paid timber growers five thousand dollars (\$5,000) or less for timber during the immediate preceding year, and an additional one hundred dollars (\$100) for each additional one thousand dollars (\$1,000) or

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fraction thereof paid to timber growers for timber purchased during the preceding year, but shall not be more than twenty thousand dollars (\$20,000). In the case of an applicant not previously engaged in business as a timber buyer, the amount of such bond shall be based on the estimated dollar amount to be paid by such timber buyer to timber growers for timber purchased during the next succeeding year, as set forth in the application.

(e) The security required under subsection (a) or (b) shall not be cancelled or altered during the period for which the certificate to the applicant was issued except upon at least sixty (60) days notice in writing to the department.

(f) Security shall be in such form, contain such terms and conditions as may be approved from time to time by the director, be conditioned to secure an honest cutting and accounting for timber purchased by the registrant, secure payment to the timber growers, and insure the timber growers against all fraudulent acts of the registrant in the purchase and cutting of the timber of this state.

(g) If a timber buyer fails to pay when due any amount due a timber grower for timber purchased, or fails to pay legally determined damages for timber wrongfully cut by a timber buyer or his agent, or commits any violation of this chapter, an adjudicative proceeding on the bond for forfeiture may be commenced, and notice of the proceeding shall be provided, under IC 4-21.5-3-6. A surety or person in possession of the security provided under subsection (a) or (b) is entitled to notification of the proceeding. If a final agency action is entered by the department under this subsection against the timber buyer, the surety or other person in possession of the security shall deliver the amount of the security identified in the order. A proceeding for forfeiture of a timber buyer's bond under IC 4-21.5 is the exclusive remedy under law for the forfeiture of the bond.

(h) An owner of property seeking a preliminary injunction or restraining order against a person, corporation, or other entity to prevent or stop the wrongful cutting of timber on the owner's property is relieved of the requirement to post a bond or other security with the court as a prerequisite to the issuance of the preliminary injunction or restraining order. However, this subsection does not apply to a property owner who seeks a preliminary injunction or restraining order to prevent or stop alleged wrongful cutting by a timber cutter or timber buyer with whom the property owner had contracted for the cutting or sale of timber.

SECTION 4. IC 25-36.5-1-10 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. A person who:
2 (1) engages in business as a timber buyer without securing a
3 registration or in violation of this chapter; or
4 (2) refuses to permit inspection of ~~his~~ **the person's** premises,
5 books, accounts, or records as provided in this chapter;
6 commits a ~~Class B~~ **Class A** misdemeanor. **However, the offense is a**
7 **Class D felony if the person has a prior unrelated conviction for an**
8 **offense under this section.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 154, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 11, delete "small".

Page 1, line 12, after "forest" delete "." and insert "**of twenty-five (25) acres or less.**".

Page 1, line 13, delete "large".

Page 1, line 14, after "forest" delete "." and insert "**of more than twenty-five (25) acres.**".

and when so amended that said bill do pass.

(Reference is to SB 154 as introduced.)

GARTON, Chairperson

Committee Vote: Yeas 7, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred Senate Bill 154, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-22-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. **(a)** If the board wishes to sell part or the whole of the aviation land or improvements owned by the eligible entity, it may prepare an ordinance authorizing the sale and submit it to the fiscal body of the entity. If the fiscal body passes the ordinance, the land or improvements shall be sold as other lands or improvements of the entity are sold, and the proceeds of the sale shall be deposited in the aviation fund of the entity.

(b) If the board negotiates an agreement to sell trees situated in woods or forest areas owned by the board, the trees are considered to be personal property of the board for severance or sale.

SECTION 2. IC 8-22-3-11, AS AMENDED BY P.L.29-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. The board may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

- (1) As a municipal corporation, to sue and be sued in its own name.
- (2) To have all the powers and duties conferred by statute upon boards of aviation commissioners. The board supersedes all boards of aviation commissioners within the district. The board has exclusive jurisdiction within the district.
- (3) To protect all property owned or managed by the board.
- (4) To adopt an annual budget and levy taxes in accordance with this chapter.

(A) The board may not levy taxes on property in excess of the following rate schedule, except as provided in sections 17 and 25 of this chapter:

| Total Assessed Property Valuation | Rate Per \$100 Of Assessed Valuation |
|--|---|
| \$300 million or less | \$0.10 |
| More than \$300 million but not more than \$450 million | \$0.0833 |
| More than \$450 million but not more than \$600 million | \$0.0667 |

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More than \$600 million

but not more than \$900 million \$0.05

More than \$900 million \$0.0333

(B) Clause (A) does not apply to an authority that was established under IC 19-6-2 or IC 19-6-3 (before their repeal on April 1, 1980).

(C) The board of an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980) may levy taxes on property not in excess of six and sixty-seven hundredths cents (\$0.0667) on each one hundred dollars (\$100) of assessed valuation.

(5) To incur indebtedness in the name of the authority in accordance with this chapter.

(6) To adopt administrative procedures, rules, and regulations.

(7) To acquire property, real, personal, or mixed, by deed, purchase, lease, condemnation, or otherwise and dispose of it for use or in connection with or for administrative purposes of the airport; to receive gifts, donations, bequests, and public trusts and to agree to conditions and terms accompanying them and to bind the authority to carry them out; to receive and administer federal or state aid; and to erect buildings or structures that may be needed to administer and carry out this chapter.

(8) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.

(9) To adopt a schedule of reasonable charges and to collect them from all users of facilities and services within the district.

(10) To purchase supplies, materials, and equipment to carry out the duties and functions of the board in accordance with procedures adopted by the board.

(11) To employ personnel that are necessary to carry out the duties, functions, and powers of the board.

(12) To establish an employee pension plan. The board may, upon due investigation, authorize and begin a fair and reasonable pension or retirement plan and program for personnel, the cost to be borne by either the authority or by the employee or by both, as the board determines. If the authority was established under IC 19-6-2 (before its repeal on April 1, 1980), the entire cost must be borne by the authority, and ordinances creating the plan or making changes in it must be approved by the mayor of the city. The plan may be administered and funded by a trust fund or by insurance purchased from an insurance company licensed to do business in Indiana or by a combination of them. The board may

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also include in the plan provisions for life insurance, disability insurance, or both.

(13) To sell surplus real or personal property in accordance with law. **If the board negotiates an agreement to sell trees situated in woods or forest areas owned by the board, the trees are considered to be personal property of the board for severance or sale.**

(14) To adopt and use a seal.

(15) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports, landing fields, and other air navigation facilities, either inside or outside the district; to acquire by lease (with or without the option to purchase) airports, landing fields, or navigation facilities, and any structures, equipment, or related improvements; and to erect, install, construct, and maintain at the airport or airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public. The Indiana department of transportation must grant its approval before land may be purchased for the establishment of an airport or landing field and before an airport or landing field may be established.

(16) To fix and determine exclusively the uses to which the airport lands may be put. All uses must be necessary or desirable to the airport or the aviation industry and must be compatible with the uses of the surrounding lands as far as practicable.

(17) To elect a secretary from its membership, or to employ a secretary, an airport director, superintendents, managers, a treasurer, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate the compensation to be paid to the persons employed by it in accordance with the authority's appropriations. All employees shall be selected irrespective of their political affiliations.

(18) To make all rules and regulations, consistent with laws regarding air commerce, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control.

(19) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field.

(20) To manage and operate airports, landing fields, and other air navigation facilities acquired or maintained by an authority; to

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lease all or part of an airport, landing field, or any buildings or other structures, and to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; and to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding fifteen (15) years and may be extended for similar terms of years, except that any parcels of the land of the airport may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding forty (40) years and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility has been determined satisfactory by the board offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport on land belonging to the airport, a lease may be entered into for a period not to exceed ninety-nine (99) years. However, the board must pass an ordinance to enter into such a lease. The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the board prescribes. The authority may lease its property and facilities for any commercial or industrial use it considers necessary and proper, including the use of providing airport motel facilities.

(21) To sell machinery, equipment, or material that is not required for aviation purposes. The proceeds shall be deposited with the treasurer of the authority.

(22) To negotiate and execute contracts for sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control and operation. However, whenever the board determines to sell part or all of aviation lands, buildings, or improvements owned by the authority, the sale must be in accordance with law.

(23) To vacate all or parts of roads, highways, streets, or alleys,

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whether inside or outside the district, in the manner provided by statute.

(24) To annex lands to itself if the lands are owned by the authority or are streets, roads, or other public ways.

(25) To approve any state, county, city, or other highway, road, street or other public way, railroad, power line, or other right-of-way to be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(26) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them in the same manner that the authority may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments, bodies, and officers of an eligible entity to secure the proper orders and approvals; and to order a public utility or public service corporation or other person to remove or to install in underground conduits wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations, upon payment to the utility or other person of due compensation for the expense of the removal or reinstallation. The board must consent before any franchise may be granted by state or local authorities for the construction of or maintenance of railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of land that is necessary for the safety of operation. The board must also consent before overhead electric power lines carrying a voltage of more than four thousand four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2) mile of a landing area acquired or maintained under this chapter may be installed.

(27) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

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(28) To provide air transportation in furtherance of the duties and responsibilities of the board.

(29) To promote or encourage aviation-related trade or commerce at the airports that it operates.".

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 6, begin a new paragraph and insert:

"SECTION 3. IC 25-36.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Every person registered as a timber buyer shall file with the department an effective surety bond issued by a corporate surety authorized to engage in the business of executing surety bonds in Indiana.

(b) Instead of the bond required by subsection (a), the department may accept security in cash or a certificate of deposit under terms established by rule.

(c) The security required under subsection (a) or (b) shall be made payable upon demand to the director, subject to this chapter, for the use and benefit of the people of Indiana and for the use and benefit of any timber grower from whom the applicant purchased and who is not paid by the applicant or for the use and benefit of any timber grower whose timber has been cut by the applicant or registrant or his agents, and who has not been paid therefor.

(d) The security required under subsection (a) or (b) shall be in the principal amount of two thousand dollars (\$2,000) for an applicant who paid timber growers five thousand dollars (\$5,000) or less for timber during the immediate preceding year, and an additional one hundred dollars (\$100) for each additional one thousand dollars (\$1,000) or fraction thereof paid to timber growers for timber purchased during the preceding year, but shall not be more than twenty thousand dollars (\$20,000). In the case of an applicant not previously engaged in business as a timber buyer, the amount of such bond shall be based on the estimated dollar amount to be paid by such timber buyer to timber growers for timber purchased during the next succeeding year, as set forth in the application.

(e) The security required under subsection (a) or (b) shall not be cancelled or altered during the period for which the certificate to the applicant was issued except upon at least sixty (60) days notice in writing to the department.

(f) Security shall be in such form, contain such terms and conditions as may be approved from time to time by the director, be conditioned to secure an honest cutting and accounting for timber purchased by the registrant, secure payment to the timber growers, and insure the timber

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growers against all fraudulent acts of the registrant in the purchase and cutting of the timber of this state.

(g) If a timber buyer fails to pay when due any amount due a timber grower for timber purchased, or fails to pay legally determined damages for timber wrongfully cut by a timber buyer or his agent, or commits any violation of this chapter, an adjudicative proceeding on the bond for forfeiture may be commenced, and notice of the proceeding shall be provided, under IC 4-21.5-3-6. A surety or person in possession of the security provided under subsection (a) or (b) is entitled to notification of the proceeding. If a final agency action is entered by the department under this subsection against the timber buyer, the surety or other person in possession of the security shall deliver the amount of the security identified in the order. A proceeding for forfeiture of a timber buyer's bond under IC 4-21.5 is the exclusive remedy under law for the forfeiture of the bond.

(h) An owner of property seeking a preliminary injunction or restraining order against a person, corporation, or other entity to prevent or stop the wrongful cutting of timber on the owner's property is relieved of the requirement to post a bond or other security with the court as a prerequisite to the issuance of the preliminary injunction or restraining order. However, this subsection does not apply to a property owner who seeks a preliminary injunction or restraining order to prevent or stop alleged wrongful cutting by a timber cutter or timber buyer with whom the property owner had contracted for the cutting or sale of timber."

Page 3, line 8, delete "(a) Except as".

Page 3, line 9, delete "provided in subsection (b), a" and insert "A".

Page 3, line 12, strike "his" and insert "**the person's**".

Page 3, line 14, strike "Class B" and insert "**Class A**".

Page 3, line 14, after "misdemeanor." insert "**However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.**".

Page 3, delete lines 15 through 34.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 154 as printed February 7, 2001.)

LYTLE, Chair

Committee Vote: yeas 10, nays 0.

ES 154—LS 6532/DI 77+



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